

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION**

|                           |   |                             |
|---------------------------|---|-----------------------------|
| United States of America, | ) |                             |
|                           | ) |                             |
| Plaintiff,                | ) | Criminal No.: 2:05-cr-00928 |
|                           | ) |                             |
| v.                        | ) |                             |
|                           | ) |                             |
|                           | ) |                             |
| Michael A. Singer,        | ) |                             |
| a/k/a Mickey Singer       | ) |                             |
| John H. Kang,             | ) |                             |
| John P. Sessions,         | ) | <b>ORDER</b>                |
| David A. Ward,            | ) |                             |
| Frederick B. Karl, Jr.,   | ) |                             |
| a/k/a Rick Karl           | ) |                             |
| Franklyn M. Krieger,      | ) |                             |
| a/k/a Frank Krieger       | ) |                             |
|                           | ) |                             |
| Defendants.               | ) |                             |
| _____                     | ) |                             |

This matter is before the court on defendants’ motion *in limine* to preclude the government from offering evidence relating to certain sales transactions and general allegations of revenue-recognition violations. Defendants maintain that the absence of deferred revenue schedules equals an inability to defend themselves against the government’s assertions. Thus, defendants have asked the court to exclude the evidence because the risk of unfair prejudice substantially outweighs the probative value of the evidence. See Fed. R. Evid. 403.

The government opposes this motion and argues that the fact that their own expert cannot testify that these transactions involved improper revenue recognition because the deferred revenue schedules do not exist does not warrant exclusion. The court agrees

that the government is not precluded from offering testimony that the disputed issues occurred simply because Ms. Morelock, the government's expert, cannot quantify the amount of the alleged fraud and/or corroborate that it occurred. Defendants will have the opportunity to test the government's evidence, or lack thereof, during cross-examination of the government's own expert. Moreover, defendants will have the opportunity to make the appropriate objections during each witness's testimony at trial.

Accordingly, defendants' motion is **DENIED** without prejudice to raise any appropriate objections at trial.

**AND IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'D. Norton', is written over a horizontal line.

**DAVID C. NORTON**  
**CHIEF UNITED STATES DISTRICT JUDGE**

**December 9, 2009**  
**Charleston, South Carolina**